

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE
BY A PERSON IN FEDERAL CUSTODY**

United States District Court	District	EASTERN DISTRICT OF PENNSYLVANIA
Name (under which you were convicted): <u>ASKia Washington</u>		Docket or Case No.: <u>13-CR-171-2</u>
Place of Confinement: <u>FCI Allenwood</u>		Prisoner No.: <u>69032-066</u>
UNITED STATES OF AMERICA <u>United States</u>		Movant (include name under which convicted) <u>V. ASKia Washington</u>

MOTION

1. (a) Name and location of court which entered the judgment of conviction you are challenging: _____

United States District Court of Eastern District of Pennsylvania

(b) Criminal docket or case number (if you know): 13-CR-00171-2

2. (a) Date of the judgment of conviction (if you know): June 9, 2015

(b) Date of sentencing: June 13, 2016

3. Length of sentence: 264 months 10yrs Supervised Probation

4. Nature of crime (all counts): 18 U.S.C. 1981(a), 18 U.S.C. 1981(a)

18 U.S.C. 2, 21 U.S.C. 846, 841(b)(1)(A), 21 U.S.C. 846, 841(b)(1)(A), 18 U.S.C. 2,

5. (a) What was your plea? (Check one)

(1) Not guilty ☒

(2) Guilty ☐

(3) Nolo contendere (no contest) ☐

- (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to? _____

03/10/2021

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☒ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: United States District Court for Eastern District of PA

(b) Docket or case number (if you know): 13-CR-00171-2

(c) Result: Affirmed in Part and Remanded in part

(d) Date of result (if you know): Aug. 28, 2017

(e) Citation to the case (if you know): _____

(f) Grounds raised: Racial Profiling / Selective Prosecution

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☒ No ☐

If "Yes," answer the following:

(1) Docket or case number (if you know): 17-6986-13-CR-00171-2

(2) Result: Denied

(3) Date of result (if you know): January 8, 2018 Decided

(4) Citation to the case (if you know): _____

(5) Grounds raised: Ineffective Assistance of Counsel

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court? Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Substantive Due Process Violation

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Petitioner was charged with a fictitious Stash House Sting that was all planned by ATF Agents. The Government's burden to prove a violation of the Hobbs Act is a slight minimal effect. The burden was met by creation of the crime and the drugs which origin is in another country and travels in interstate commerce. Petitioner could not argue impossibility, which is the only plausible defense because by law impossibility is not a defense to inchoate crime, thus stripping Petitioner of a affirmative defense because of the fictitious Hobbs Act and Drug charge.

(b) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: It is a Constitutional claim.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application? Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application? Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application? Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal? Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: Issue was not raised on direct

appeal because its a Constitutional claim

GROUND TWO: Denied Ineffective Assistance of Counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Petitioner was denied Effective Assistance of
Counsel as a right during trial direct appeal
stages for both of his Attorneys for unprofessional
conduct and a appealant Attorney using an improper

vehicle to argue the unprofessional conduct: Petitioners trial Attorney Roland P. Jarvis was drinking during Petitioners trial which was extremely unprofessional conduct and the US Attorney also noticed that Attorney was drinking. On appeal Mark S. Greenberg argued that Mr. Jarvis was intoxicated during the Petitioners trial when as an experienced Attorney he should have known that direct appeal was not a proper vehicle to argue ineffective assistance of counsel.

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: Mr. Mark S.

Greenberg raised this issue.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application? Yes ☒ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application? Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application? Yes ☒ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal? Yes ☒ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: District Court

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____
- _____
- _____
- _____

GROUND THREE: Petitioner was denied effective assistance of counsel as a right, post trial sentencing phase for attorney failing

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

to challenge petitioner designation as a career offender. One of petitioner's prior predicates that was used to designate him as a career offender was a Pennsylvania aggravated assault. In that statute, recklessly is a way you can violate the statute and committing a crime recklessly lacks the proper mens rea, for and attorney failed to challenge / argue it.

(b) Direct Appeal of Ground Three:

- (1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: I asked my Attorney Mr. Jarvis to present this and he never did it I complained to Judge Stensky about him.

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application? Yes ☐ No ☐

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (3) Did you receive a hearing on your motion, petition, or application? Yes ☐ No ☒
- (4) Did you appeal from the denial of your motion, petition, or application? Yes ☒ No ☐
- (5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal? Yes ☐ No ☐
- (6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: District Court

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND FOUR:

Petitioner was denied effective assistance of counsel, as a right, post trial sentencing phase Direct appeal,

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

for attorney failing to raise "Sentencing Manipulation". In Petitioner's case the Government conduct in getting a quantity of five kilograms or more of cocaine, to secure a Mandatory Minimum of ten years at least, if defendant was convicted, was a clear cut manipulation of the Sentencing and attorney failed to argue it at any stage post trial.

(b) Direct Appeal of Ground Four:

- (1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: My Attorney was told to raise this issue.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application? Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application? Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application? Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal? Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing:

Roland P. Jarvis / Mark S Greenberg

(b) At the arraignment and plea: _____

(c) At the trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

16. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☒ No ☐

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

Commonwealth of Pennsylvania

- (b) Give the date the other sentence was imposed: _____
- (c) Give the length of the other sentence: _____
- (d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☒ No ☐

17. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.¹

Because the Honorable Judge Joel Spomsky gave me an extension for 60 days after the judgment was finalized.

¹ 28 U.S.C. § 2255(f), provides that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: Unprofessional
conduct by Attorneys, Sentencing Manipulation of
Petitioner, Outrageous Government Conduct, Ineffective assistance of
 or any other relief to which movant may be entitled. counsel, Due Process Violation.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on

March 11, 2021
 (month, date, year)

Executed (signed) on _____
 (date)

Askin Washington
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

Ground #5

Petitioner was denied effective assistance of Counsel, as a right, during sentencing Direct appeal for Attorney failing to raise a claim of "Outrageous Government Conduct".

Petitioner asserts that an indictment may be dismissed by a district court when conduct of the Government violates Due Process. Petitioner was charged and convicted of a case, wholly created by the Government, where no drugs or drug dealer existed, and was charged and convicted of conspiring to possess with intent to distribute the fictitious drugs. Petitioner asserts that He does not think Congress intended to give out mandatory minimums for drugs that do not exist and attorney failed to attack the issue.

Ground #6

Petitioner was denied effective assistance of Counsel, as a right, during trial for attorney failing to argue an Entrapment defense.

Petitioner was arrested in a fictitious case and felt that his best and only defense was to argue Entrapment, which petitioner expressed to attorney, but attorney failed to do so.

Ground #7

The courts enhanced petitioner 2 points for an acquitted conduct / use of a violent weapon which petitioner was acquitted of.

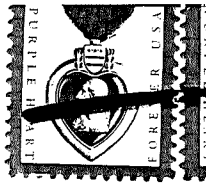
Ground #8

Miscarriage of Justice / Procedural Fairness / Jurisdictional Defect, Prejudice to Excuse Procedural Default. Failure to ~~consider~~ consider the claim will result in a Fundamental miscarriage of Justice. Actual Innocence claim!

ASKia Washington X69032-006

FCT ALLENWOOD P.O. BOX 2000

WHITE DEER, PA 17887



ALLENWOOD FEDERAL CORRECTIONAL INSTITUTION
WHITE DEER, PA 17887-2500

DATE

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Clerk, United States District Court
for the Eastern District of Pennsylvania
601 Market Street, Room 260
Philadelphia, PA 19106

U.S.M.S.
X-RAY